

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STACY S.; and JOHN AND MARY)	
ELLEN S., on behalf of their daughter,)	CIVIL ACTION NO. 04-150E
LEIGH ANN S., a minor)	
)	
Plaintiff)	
)	
v.)	
)	
GIRARD SCHOOL DISTRICT;)	Honorable Sean J. McLaughlin
ROBERT SNYDER, Individually)	
and in his capacity as Principal of)	
Rice Avenue Middle School; and GREGORY)	
YARBENET, a professional employee)	
of the Girard School District)	
)	
Defendants,)	

CONCISE STATEMENT OF MATERIAL FACTS

IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

AGAINST DEFENDANT GREGORY YARBENET

Undisputed Facts Pertaining To Stacy S.

1. The Plaintiff, Stacy S. was born [REDACTED] 1985, and for all times relevant to this litigation, was both a minor and more than four years younger than Defendant Gregory J. Yarbenet. (131a)

2. Stacy attended grades five through eight at Rice Avenue Middle School in Girard, Pennsylvania, where Gregory Yarbenet was her sixth grade science teacher and her seventh and eighth grade home room teacher. (100.2a)

3. In the 1997-98 school year, Stacy S. was in sixth grade and assigned to Yarbenet's classroom.

4. Gregory Yarbenet subjected Stacy S. to sexual molestation, sexual contact, and sexual harassment from February of her 7th grade school year until the end of her 8th grade school year. (107a)

5. Yarbenet persuaded Stacy to become a member of his TV studio team in seventh and eighth grade, which required her to be in his home room for those two years. (100.4a, 107.7a, 194a)

6. The first incident of molestation occurred on February 4, 1999, when Stacy was 13 years old. (106a) Gregory Yarbenet drove several students home from a field trip, including Stacy. (101a) On the ride home, Yarbenet stroked Stacy's thigh and held her hand where the other students on the trip could observe. (103a)

7. After dropping off the other students, Yarbenet stopped at a stop sign and asked if he could "steal a kiss." (104a). When Stacy did not respond Yarbenet leaned across the front seat and kissed her with an open mouth and fondled her breasts. (103a-104a) Yarbenet repeated his sexual assault a few minutes later while still in the car. (106a)

8. Beginning on February 5, 1999, Gregory Yarbenet began subjecting Stacy to a pattern of constant sexual abuse. (107a). The abuse increased in intensity and frequency over the next two years. (108.1a)

9. For the remainder of the 1998-99 school year, Defendant Yarbenet engaged in conduct including open-mouth kissing (104a), physical touching of Stacy's breasts (105a), and forcing Stacy to touch his genitals above his clothing (107.3a).

10. Yarbenet wrote passes virtually every day to get Stacy excused from her assigned classes. (107.4a)

11. Yarbenet gave Stacy numerous gifts, including his first wife's wedding band and a gold ring that had belonged to her (17a), as well as many notes and letters and pictures (17a-18a).

12. Yarbenet's conduct took place in his automobile (104a), in the Rice Avenue Middle School's TV studio (107.1a), and in his classroom and adjoining closet (107.2a). The closet was a common area between Yarbenet's and another teacher's room. (107.2a)

13. In the 1999-2000 school year, Yarbenet continued engaging in improper contact with Stacy. (108a) During this period the touching became more intense and less gentle. (108.1a) He touched her under her clothing. (108.1a) He began to kiss Stacy on her chest, stomach, arms, ears, and neck. (108.1a) He bit her several times on her lips and tongue. (109a) He also began to force Stacy to hold and rub his penis until he ejaculated. (111a)

14. On or about June 1, 2000, Yarbenet led Stacy to the school's TV studio where they would be alone. (115a) There, he forced her head to his waist level (115a) and placed his penis in her mouth (116a), indicating that he wanted her to perform oral sex on him (115a).

15. Approximately one week later, Yarbenet again caused Stacy to perform oral sex on him. (117a) He again took her to the TV studio and put his penis in her mouth. (116a)

16. Stacy completed eighth grade in June 2000. She attended Girard High School for ninth grade, in the school year 2000-2001. Beginning in tenth grade, Stacy attended Northwest Pennsylvania Collegiate Academy in Erie. (100.2a)

17. In March 2002 Stacy disclosed to a teacher, Amy Mulligan, that she had been molested by Gregory Yarbenet. (18a)

18. Gregory Yarbenet was arrested and criminally charged for the conduct involving Stacy S.

19. On March 4, 2003, Gregory Yarbenet pled guilty to seven counts of criminal conduct involving Stacy, in the Court of Common Pleas of Erie County, Criminal Division, No. 1434 of 2002. (136a)

20. Yarbenet pled guilty to one count of deviate sexual intercourse for engaging in oral sex with a minor, Stacy, on or about June 1, 2000. (131a)

21. Yarbenet pled guilty to three charges of indecent assault. The first charge was for conduct occurring between the months of February and April 1999 at the Rice Avenue Middle School. (132a)

22. The second indecent assault charge to which Yarbenet pled guilty was for contact on several occasions between the months of June and September of 1999 at the Rice Avenue Middle School. (133a)

23. The third indecent assault charge to which Yarbenet pled guilty was for contact on several occasions between the months of January and March of 2000 at the Rice Avenue Middle School. (134a)

24. Yarbenet pled guilty to three counts of corruption of a minor. The first count was for conduct occurring on almost a daily basis between the months of February and April 1999. (134a)

25. The second count of corruption of a minor to which Yarbenet pled guilty was for conduct that occurred on a daily basis between the months of June and September 1999. (135a)

26. The third count of corruption of a minor to which Yarbenet pled guilty was for conduct that occurred on almost a daily basis between the months of January and March of 2000 at the Rice Avenue Middle School. (135a)

27. The legal definition of each charge was explained to Yarbenet before each responsive pleading was registered. (131a-135a) The mandatory and maximum sentencing restrictions of each charge were explained before each responsive pleading. (129a-131a) The Court verified that none of Mr. Yarbenet's pleadings had been the result of coercion and that they were entirely voluntary. (136a). Defendant Yarbenet signed the court documents that reflect the foregoing proceedings. (136a)

28. After signing the court documents, the Court verified that Mr. Yarbenet had understood the proceedings which had occurred (136a) and confirmed that Yarbenet had "knowingly, voluntarily, and intelligently entered" all guilty pleas (137a).

29. Gregory Yarbenet was sentenced to five to ten years in prison and costs of trial for the charge of deviate sexual intercourse with a minor. (213a) He was sentenced to two to four years for the charges of indecent contact and corruption of a minor. (213a). He was also sentenced to two to four years for another corruption of a minor charge. (213a). Finally, he was sentenced to serve an additional two to four years for another charge of corruption of a minor. (213a). In total, Gregory J. Yarbenet was sentenced to between eleven and twenty-two years in prison for his conduct with Stacy S. (213a).

Undisputed Facts Pertaining to Leigh Ann S.

30. Plaintiff Leigh Ann S. was born [REDACTED], 1988, and for all periods relevant to this litigation was both a minor and more than four years younger than Defendant Gregory J.

Yarbenet. (145a)

31. Leigh Ann attended sixth grade at Rice Avenue Middle School in Girard beginning in the middle of the 1999-2000 school year, when she transferred from a private school. Gregory Yarbenet was her science teacher that year. (194a)

32. Leigh Ann repeated the sixth grade in the 2000-2001 school year because the curriculum at her former school was behind that of the Girard School District. (196a) She was again assigned to Gregory Yarbenet's science class. (196a)

33. During Leigh Ann's second year of sixth grade, Gregory Yarbenet began to touch her in a sexual manner. The first incident of abuse occurred in the middle of a class period while Leigh Ann was standing behind his desk. (197a) Yarbenet forced his hand between her thighs, near her crotch, with other students only feet away. (198a)

34. On another occasion, Yarbenet touched Leigh Ann between her thighs at his home where his son was hosting a party for his friends, including Leigh Ann. (198a)

35. During the remainder of Leigh Ann's sixth grade year Gregory Yarbenet touched her sexually almost every school day when he and Leigh Ann were both present. (198a) He placed his hand between her legs, he fondled her buttocks, and he hugged her sexually. (198a-199a)

36. The assaults on Leigh Ann occurred in hallways, in Yarbenet's classroom, and in the school's TV studio (25a), as well as in his automobile (30a-31a).

37. Yarbenet took Leigh Ann for a ride in his powered parachute, and with Leigh Ann sitting trapped behind him, rested his head in her crotch. (199a-200a)

38. In the summer between Leigh Ann's sixth and seventh grade years, Yarbenet stopped by her family's cottage on Lake Erie, uninvited, while she was vacationing with her family. (200a) During this visit, while he and Leigh Ann were in the water, he steered her away from the others in the group and proceeded to put his hand inside her bathing suit bottom. (200a)

39. The same inappropriate touching of Leigh Ann's thighs and buttocks and the sexual hugs continued in seventh grade. (199a) Yarbenet also began to manipulate Leigh Ann's genitals in a sexual manner and became more sexually aggressive and rougher. (24a-24.1a) Yarbenet would hug Leigh Ann hard and make sexual noises in her ear and thrust his hips at her. (34.1a)

40. Yarbenet assaulted Leigh Ann in the lobby of a local television studio when she was on a field trip chaperoned by Yarbenet. (27a) With several other students in the room, Yarbenet had Leigh Ann sit on his lap and fondled her in a way that the other students and receptionist could not see. (27a)

41. Yarbenet discussed with Leigh Ann his sexual activity with his deceased wife, while fondling Leigh Ann. (201a) Yarbenet discussed Leigh Ann's teenage boyfriend with her and asked her questions about how she and her boyfriend kissed, while he was touching her. (201a-202a)

42. Yarbenet gave Leigh Ann a ring inscribed with the word "Tease," as well as several other gifts. (202a)

43. Yarbenet called Leigh Ann at home frequently both during the school year and in the summer months. (202a)

44. Yarbenet wrote more than fifty personal notes to Leigh Ann, some of which contained answers to upcoming tests in her science class. (202a-207a)

45. Yarbenet's sexual molestation of Leigh Ann stopped only when he was suspended from teaching on April 9, 2002. (200a-201a)

46. Leigh Ann revealed on December 10, 2002, that Gregory Yarbenet had sexually molested her. (216a)

47. On June 2, 2003, Gregory Yarbenet pled guilty to four counts of criminal sexual conduct with the minor child Leigh Ann in the Court of Common Pleas of Erie County, Criminal Division, at No. 1291 of 2003. (145a-147a)

48. Yarbenet pled guilty to two counts of corruption of minors for sexual activities with Leigh Ann. The first charge to which he pled guilty was for conduct occurring on an almost daily basis at Rice Avenue Middle School between March 2001 and May 2001. (145a)

49. The second corruption of minors charge to which Yarbenet pled guilty was for conduct occurring on an almost daily basis at Rice Avenue Middle School between March and April 2002. (145a)

50. Yarbenet pled guilty to two counts of indecent assault on a person less than 16 years of age. The first charge was for indecent assault involving Leigh Ann on an almost daily basis at Rice Avenue Middle School occurring between September 2001 and December 2001. (146a)

51. The second indecent assault charge to which Yarbenet pled guilty was for conduct occurring on an almost daily basis at Rice Avenue Middle School between March and April of 2002. (146a)

52. The legal definitions of each charge were explained to Yarbenet before each responsive pleading was registered. (145a-146a) The possible sentence for each charge was explained to Yarbenet. (144a) The court verified that none of Yarbenet's pleadings had been the result of coercion. (147a) Yarbenet signed the court documents that reflected the foregoing proceedings. (147a)

53. As to count one, corruption of the minor victim Leigh Ann, Yarbenet was ordered to pay the costs of prosecution and was sentenced to six to eighteen months to be served consecutively to the sentence being served for criminal sexual conduct vis-a-vis Stacy. (157a)

54. As to count two, corruption of the minor victim Leigh Ann, Yarbenet was ordered to pay the costs of prosecution and was sentenced to a six to eighteen months to be served concurrently with the sentence imposed at count one. (157a)

55. As to count three, indecent assault, relating to Leigh Ann, Yarbenet was sentenced to three to eighteen months to be served concurrently with the sentence imposed at count one. (157a)

56. As to count four, indecent assault, relating to Leigh Ann, Yarbenet was ordered to pay the costs of prosecution and was sentenced to three to eighteen months to be served concurrently with count one. (157a-158a)

s/ Edward A. Olds

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2005, I electronically filed the forgoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participant:

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